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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO;
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO, et al.,

Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

**PLAINTIFFS' URGENT REQUEST FOR
STATUS CONFERENCE RE: NON-
COMPLIANCE WITH COURT ORDER**

1 Plaintiffs respectfully request the Court hold a status conference as soon as possible, to
2 discuss Defendants' notice to Plaintiffs that they do not intend to comply with this Court's order
3 requiring Defendant Acting OPM Director Charles Ezell to appear at the preliminary injunction
4 hearing scheduled for 8:00 a.m. on March 13, 2025.

5 On February 26, 2025, Defendant Acting Director Ezell submitted a Declaration under
6 penalty of perjury (indeed, the only declaration submitted by Defendants) in opposition to
7 Plaintiffs' TRO Motion. That declaration included statements regarding OPM's directions to
8 federal agencies that were refuted by substantial evidence submitted by Plaintiffs. Dkt. 34 ¶¶4-7,
9 10.

10 At the February 27, 2025 TRO hearing in this case, this Court ordered an "evidentiary
11 hearing" to take place on March 13, 2025, and ordered Acting OPM Director Ezell to appear for
12 cross-examination. Dkt. 44 at 69.

13 First thing Monday morning, on March 3, 2025, Plaintiffs' counsel wrote to Defendants to
14 confirm that Defendant Ezell would appear. Leonard Dec. ¶3. Defendants responded during a
15 meet and confer telephone conference later that day by indicating, for the first time, that
16 Defendants were considering objecting to the appearance of Mr. Ezell. *Id.* ¶4. Defendants asked
17 Plaintiffs to consider postponing the hearing for two weeks (without further relief to the terminated
18 federal employees or those who rely on their services) and calling other witnesses rather than Mr.
19 Ezell. *Id.* Plaintiffs responded to Defendants' proposals in writing on March 4, 2025, declining the
20 proposal to postpone, reiterating the Court's order that Mr. Ezell appear, and confirming Plaintiffs'
21 understanding that Defendants are objecting to Mr. Ezell's appearance (and therefore to this
22 Court's order) and do not intend to make Mr. Ezell available at the hearing, and asking Defendants
23 to clarify any change in position by 12 noon on March 5, 2025. *Id.* ¶*5. Defendants did not
24 respond by 12 noon. *Id.* ¶*6. Later in the day, they contacted Plaintiffs' counsel but did not
25 confirm whether they would make Mr. Ezell available; instead, they asked for additional time. *Id.*
26 ¶7. Plaintiffs -therefore notified opposing counsel of their plans to file this request for a status
27 conference and gave one final opportunity to Defendants to confirm that they would make Mr.
28

1 Ezell available, to which Defendants did not respond. *Id.* ¶*7. Defendants' counsel responded
 2 without clarifying whether they would make Mr. Ezell available and instead asked for additional
 3 time. *Id.* ¶7. In light of the imminence of the hearing, I responded that Plaintiffs would file this
 4 request.

5 Defendants made no objection to the Court's order during the hearing on February 27,
 6 2025. That order was clear: Mr. Ezell must appear for cross-examination on March 13, 2025 in
 7 this Court. Defendants are now taking the position that they will not produce him. Plaintiffs have
 8 brought this issue immediately to the Court's attention following confirmation of Defendants'
 9 position, and respectfully seek this Court's advice regarding compliance and enforcement of the
 10 Court's order. Plaintiffs are prepared to file an expedited motion to show cause why Defendants
 11 should not be held in contempt, as needed. Given the imminent hearing date on March 13, 2025,
 12 Plaintiffs respectfully request a status conference tomorrow, **Thursday, March 6, 2025**, to discuss
 13 this issue with the Court, and can be available at the Court's convenience.

14
 15 Respectfully submitted,

16
 17 DATED: March 5, 2025

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28 By: /s/ Danielle Leonard

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